

**MINUTES**  
**GAMING ADVISORY COUNCIL**

*June 28, 2002*  
*Scott Hart Auditorium*  
*Helena, Montana*

Please note: This is a summary of the Council meeting. The meeting in its entirety is on tape at the Gambling Control Division office at 2550 Prospect Avenue, Helena, Montana. Exhibits are on file in the office of the Gambling Control Division.

**COUNCIL MEMBERS PRESENT**

Senator Dale Mahlum, Chairman  
John Tooke  
Tom Scott  
Tim Carson

Steve Morris  
Bill Thomas  
Dennis Taylor  
S. Kevin Howlett

**DIVISION STAFF PRESENT**

Gene Huntington  
Rick Ask  
Kathy Fisher

Ben Kamerzel  
Kathy Baertsch

**SUMMARY OF COUNCIL ACTION**

- ♠ **Rich Miller, Executive Director, Gaming Industry Association reported on the Problem Gambling Sub-Committee.**
- ♣ **Gene Huntington, Gambling Control Division Administrator, and Rick Ask, Operations Bureau Chief, discussed the proposed rule changes.**
- ♥ **Discussed proposing legislation prohibiting Internet gambling. Motion passed unanimously to endorse the proposed legislation prohibiting Internet gambling.**
- ♦ **Discussed the combined liquor/gambling application. Motion passed unanimously to approve drafting of legislation to combine the review process for liquor/gambling licenses.**
- ♠ **Mr. Huntington discussed the need for legislation to address the delays and changes in plans for implementing the automated accounting and reporting system (AARS).**

- ♣ **Discussed minor legislative changes. Motion passed unanimously to proceed with drafting legislation dealing with allowing revocation of lapsed licenses and a statute of limitations on gambling violations.**
- ♥ **Mr. Huntington reported on the status of the settlement agreement between the state and LGS.**
- ♦ **Discussed funding of Gambling Control Operations and options for additional funding. A motion passed unanimously that the Council convey to the Legislature that there be no reduction in services at the Division. The Council also passed a motion 7-1 to recommend to the Legislature that permit fees be increased to \$220 with the increase in fees to be totally dedicated to the GCD budget. The Council unanimously passed a motion recommending tying future increases in fees and funding to industry revenues.**
- ♠ **Attorney General, Mike McGrath welcomed the Council, thanked them for their work on the Council and indicated that any help and guidance received from the Council regarding funding would be welcome.**

### **CALL TO ORDER AND ROLL CALL**

Chairman Mahlum called the meeting to order at 11:08 a.m. Roll call was taken. All members were present except for Representative Witt, who was excused. The minutes from the April 4th and 5th meeting were adopted unanimously.

### **PROBLEM GAMBLING SUB-COMMITTEE**

Rich Miller, Executive Director, Gaming Industry Association, reported that the Problem Gambling Sub-committee met in Great Falls on May 29, 2002. Mr. Miller stated that the Sub-Committee has recommended a brochure to be distributed to the Department of Corrections, Health & Human Services, parole, supervision, etc. Senator Mahlum asked if it would be distributed to taverns and Mr. Miller stated that it would not be since the taverns already have two posters visibly displayed on the premises. Mr. Miller explained that the Hotline number has been receiving 85 calls per month on average and the group treatment sessions are averaging 2 people per session with 50-60 people per month in attendance. Tom Scott suggested that a more detailed letter explaining the program would be beneficial to the district court judges and justices of the peace.

## **PROPOSED RULE CHANGES**

### **Promotional Games**

Gene Huntington, Gambling Control Division Administrator addressed the Council and presented the proposed rule changes. Mr. Huntington discussed promotional game rule changes, which would have the prize limits on promotional games only apply to gambling and liquor licensees, and not other businesses such as radio stations or newspapers.

### **Non-Institutional Loans**

Rick Ask, Gambling Control Division Operations Bureau Chief, explained the changes in the non-institutional loan rule. Mr. Ask stated that the Division's focus is on non-institutional sources of funding and new shareholders. Sen. Mahlum asked if the application process could be made less onerous for existing licensees and Mr. Ask replied that the Division has a model that it looks at which includes adding a stranger to the license, sources of funding (internal or external), etc. Mr. Ask explained that the Division needs to have an accurate record of ownership for each licensee. Sen. Mahlum stated that the Division needs to make the process easier for owners to leave a legacy to their children. Mr. Huntington stated that the Division staff would look at the process and bring rule proposals to a future Council meeting.

### **Bill Acceptors**

Mr. Huntington advised that this change would implement the Council's recommendation to allow bill acceptors to accept bills up to a \$20 denomination. Chairman Mahlum stated that he believed that this rule should go before the Legislature to be changed statutorily.

### **Minor Rule Changes**

Rick Ask explained the minor rule changes:

23.16.102(5) No need for 2 copies - This change would remove the need for submission of two copies of the gambling application. Two copies are no longer needed with the combined application form.

23.16.402 & 23.16.410 Card dealer license changes - These would allow the Division to eliminate the rule that requires all personal information to be on the face of the card. Without the personal information on the front, dealers could be required to display their license rather than just carry their license. Rich Miller commented that the rule change on 23.16.410 would be in conflict with statute 23-5-308(4) and would require something in rule that is not required in statute, e.g. display of the license rather than just carrying the license on the dealer's person. Mr. Huntington stated that the Division would review this conflict and withdraw the rule change to 23.16.410 if necessary.

23.16.1716 Correct error in Sports Tab Game Seller License - The current rule incorrectly uses the word "section" instead of "rule."

23.16.1822(6) Letter of Withdrawal (LOW) due in 10 days - The current language only states that a completed LOW must be submitted to the department when a permitted machine is removed from play prior to the renewal deadline of each year (June 30). Licensees and route operators send in LOW's when they want as long as it is prior to June 30. For consistency a reasonable deadline needs to be required.

23.16.2001(9) Change reference date on form - the date on the illegal gambling devices form needs to be updated to reflect the most current form.

## **PROPOSED LEGISLATION**

### **Internet Gambling Prohibition**

Mr. Huntington discussed the need for legislation to address Internet gambling in Montana. Because Montana's Constitution and statutes make it clear that all gambling is illegal unless specifically authorized by the Legislature, Internet gambling can be assumed to be illegal. In addition, extending credit for purposes of gambling is clearly illegal in Montana and most Internet gambling depends on the use of credit cards. Mr. Huntington explained that if Nevada enacts regulations allowing casinos to offer Internet gambling, it should be clear that Montana is not a state that allows Internet gambling. He also stated that callers have stated that Internet gambling is not illegal in Montana because there is not a specific statute. Mr. Huntington further explained that the proposed legislation would be general in nature and simply add Internet gambling to the list of "illegal gambling enterprises."

Mr. Tooke asked how effective the proposed legislation will be if there is no federal legislation addressing Internet gambling. Mr. Howlett requested information on the applicability of this legislation to Indian Reservations. Mr. Huntington stated that the federal Coeur d'Alene decision on Internet gambling actually has implications regarding tribal relations. Mr. Howlett stated that sometime down the road the Tribes may have an interest in this and that this needs to be dealt with in some manner at this time.

Dennis Taylor recommended that the Council endorse the proposed legislation on Internet gambling. Mr. Howlett seconded the motion with the amendment that consideration is given to the sovereign tribes of the Indian nations in Montana. Mr. Taylor's motion with Mr. Howlett's amendment passed unanimously. Mr. Howlett will work with Mr. Huntington on this issue. They will examine the applicability of federal law and the tribe's rights under federal law. Mr. Tooke stated that he was concerned about what happens in the proposed federal amendment of the Johnson Wire Act and until that's resolved he is concerned about having to go back and revisit the whole thing again depending on the results of the federal legislation. Sen. Mahlum asked Mr.

Howlett if he would mind if the amendment were contingent on the Johnson Wire Act. Mr. Howlett stated he would be satisfied with the terminology of applicable federal law.

### **Combined Liquor/Gambling Application**

Neil Peterson, Department of Revenue, Customer Service Center, reported on the progress of the combined liquor/gambling application and the needed legislation. Mr. Peterson stated that the application process is working well and has eliminated a lot of duplication of effort in license investigations. Mr. Peterson discussed the legislation that is needed to modify existing law to provide for the following:

#1. Provide that the Gambling Control Division is the agency designated to receive all on premise alcoholic beverage applications.

#2. Repeal the current limit for processing liquor applications that limits the Department of Revenue to one request for additional information and 30 days to determine that the application is complete or send it back to the applicant. This requirement does not work with the new process. This requirement forces the agency to make applicants start over when we only need to get additional documents or give them time to get additional documents.

#3. Provide authority to require fingerprinting for new (not existing) applicants. Changes in federal procedures may make background information only available through fingerprint inquiries. Mr. Huntington stated that unless the agencies move to fingerprinting requirements they will lose access to the national data base for background checks on individuals.

Mr. Peterson stated that Representative McKenney is going to make a bill draft request for these legislative changes.

Kathy Baertsch reported that to date, 37 liquor/gambling applications had been received. Six applications had been completed in an average of 55 days from the time it is received at Gambling Control and then received back from investigation. Four of those cases just came in on June 27th. One has been completed and approved and that took a total of 59 days.

Mr. Peterson stated that prior to the combined application process it took an average of 193 days to approve an application. Mr. Peterson reported that the field people are very happy because it eliminates the duplication of review.

Mr. Carson made a motion to approve drafting of legislation to combine the review process for liquor/gambling licenses. The motion passed unanimously.

## **AARS, HB 109 Update**

Mr. Huntington reported that legislation is needed to address the delays and changes in plans for implementing the automated accounting and reporting system (AARS). Mr. Huntington explained that the current law would only provide a tax credit to video gambling machines that were active prior to December 31, 2001. This date needs to be extended for one year to compensate for the delay in implementing the system. He added that the current law only provides the tax credit to machine owners who convert their machines prior to January 1, 2005. This date should be extended to January 1, 2006. The Division would provide for training and licensing of private sector service employees who could service the AARS systems within the locations. The Division assumes that these people would come from existing service providers, employees of route operators and locations.

## **Minor Legislative Proposals for 2003 Legislature**

Mr. Huntington discussed proposing legislation to allow for the revocation of a lapsed license. Mr. Huntington also indicated that the Division would like to clarify the issue of the statute of limitations on gambling violations. Kevin Holwett made the motion to proceed with the above legislation - the motion passed unanimously.

## **AUTOMATED ACCOUNTING AND REPORTING SYSTEM**

Gene Huntington reported on the settlement agreement between the state and LGS. Mr. Huntington explained that LGS would deliver the portion of the system that has been paid for and will be paid an additional \$350,000 to provide a "technology transfer" to GCD so that the state can support the system. The technology transfer includes all rights for software and hardware, adequate documentation and training. Mr. Huntington stressed that the requirements and test plan criteria must be satisfied before any payments are provided to LGS. With the execution of the settlement agreement, GCD will stay the lawsuit against LGS. With the completion of the final milestone, GCD will drop the lawsuit. Mr. Scott asked what recourse is available to the Division if LGS does not meet the deadlines. Mr. Huntington explained that a mediation process with binding arbitration would be used.

## **FUNDING OF GAMBLING CONTROL OPERATIONS**

Mr. Huntington stated that the issue paper on funding is essentially the same as presented at the last GAC meeting with the addition of a fourth proposal which is a combination reducing services (-3 FTEs); a reallocation of the fee split with local governments to 60% to Gambling Special Revenue Fund and 40% for local governments (presently 50/50); and an increase in vgm permit fees to \$220 from the current \$200, with all of the additional revenue going to the state. Alec Hanson of the Montana League of Cities and Towns stated that the cities and towns couldn't afford to give up any money. Mr. Tooke stated that everyone concerned needs to share in solving the problem. He suggested that the 5% increase in taxes collected be used to offset the needed funds. He reiterated that it

is in the self-interest of the industry to be well regulated. Mr. Scott stated that permit fees had been stagnant since 1989 but revenues have increased. Mr. Scott stated that it would be appropriate to engage in a dual program to moderately raise the permit fees and also invade a portion of the increases in tax revenues to pay for services. He added that a reduction in services or staff would be highly inappropriate. Dennis Taylor agreed that the permit fees should be increased to recognize the increased costs and that maybe it is appropriate that some of the tax should be used to cover the costs of regulation. Mr. Huntington stated that the budget needs to be submitted by approximately September 1, 2002.

Rich Miller stated that the Gaming Industry Association would be amenable to discussing at their August 1 meeting raising the VGM permit fees \$20. It has not been discussed with any of the other groups. He said that this would require a change in MCA 23-5-612(3). He asked if machine transfer fees would be increased or just initial permit fees. Mr. Ask stated it would just affect the initial permit fee. Mr. Miller stated that it is very important industry wise to have a Gambling Control Division that is adequately funded. Mr. Miller explained that the market has stagnated - video gambling machines are not selling - part of it is uncertainty and there are no new games, or new products. The manufacturers go through a lengthy process to have new programs approved for use. Manufacturers have also already invested over half a million dollars to prepare for dial-up and now know that that investment is not a loss with the settlement with LGS. The GIA would ask that if there is any appropriations out of the vgm tax that it be a strict dollar appropriation rather than percentage of taxes collected.

Mr. Scott made a motion that the Council convey to the Legislature that there be no reduction in services at the Division. Mr. Tooke seconded the motion, which passed unanimously. Mr. Scott also moved that the Council recommend to the Legislature that the permit fees be increased to \$220 with the increase in fees to be totally dedicated to the Gambling Control Division budget. Mr. Taylor seconded the motion. The motion passed 7-1 with Steve Morris opposed. Mr. Scott recommended looking at tying future increases in fees and funding to industry revenues. Mr. Tooke seconded the motion. The motion passed unanimously.

#### **ATTORNEY GENERAL MIKE MCGRATH**

Montana Attorney General, Mike McGrath addressed the Council. He thanked them for their work on the Council and advised them that the big issue right now is funding. He stated that one thing that can be said about the gaming industry in Montana is that it is a clean industry, a family run industry and that it is well regulated. He indicated that any help and guidance received from the Council would be welcome.

#### **FINAL BUSINESS**

The Council agreed on August 23rd. The Council discussed having the meeting in Polson. The meeting adjourned at 2:17 p.m.